



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE

Docket No: 4602-98

23 December 1999



Dear [REDACTED]

This is in reference to your request for further consideration of your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 September 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. The new evidence considered by the Board consisted of the rating decision of a Department of Veterans Affairs (VA) hearing officer dated 27 May 1998, and allied papers

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you were evaluated by a board of medical survey (BMS) on 10 December 1959. The report of the BMS indicates that a physician on the USS Wasp gave you a diagnosis of DU (diagnosis undetermined) (Schizophrenia) on 16 November 1959. You were transferred to Naval Hospital Chelsea on 20 November 1959. After a period of observation and treatment by psychiatrists at that facility, you were given a diagnosis of paranoid personality, existed prior to entry, not aggravated by service. The BMS confirmed that diagnosis, and recommended that you be discharged from the Naval service because of the personality disorder, as manifested by your disciplinary problems and frequent difficulties with superior commissioned and non-commissioned officers. The recommendation was approved on 10 December 1959, and you were discharged by reason of unsuitability on 17 December 1959, pursuant to Article C-10310, Bureau of Naval Personnel Manual.

Your initial claim for service connection for a mental disorder was denied by the VA on 27 May 1968. Reportedly, you were hospitalized at a VA facility on 4 December 1970, and treated for schizophrenia. On 29 December 1970, after further work-up at another VA facility, your condition was diagnosed as a paranoid personality. Your renewed request for service connection was denied on 30 March 1971, based on the determination that you did not suffer from a psychosis which was incurred in or aggravated by your naval service, or manifested itself to a compensable degree within one year of your discharge. Requests to reopen your claim were denied by VA officials on 2 May 1996 and 24 February 1998. On 21 May 1998, however, a VA hearing officer granted service connection and a 50% rating for a psychotic disorder, not otherwise specified. The hearing officer summarized his reasoning as follows: "Based on consideration of all of the evidence of record, both old and new, and resolving reasonable doubt in favor of the veteran, service connection for psychotic disorder, not otherwise specified, is deemed to be in order based on the veteran's reopened claim received 11/29/96." The hearing officer relied on a statement dated 18 September 1997, by Dr. M..., a private psychologist, as well as his testimony at a hearing conducted on 18 March 1998. The statement is to the effect that on 16 November 1959, a physician diagnosed your condition as schizophrenia, without clearly specifying a sub-classification of that disorder. In Dr. M...'s opinion, there are two types of evidence gleaned from your records which support the conclusion that you suffered from schizophrenia while in the Navy, namely, the diagnosis made on 16 November 1959, and his conclusion that directly following your discharge from the Navy, you manifested symptoms and behaviors of schizophrenia, which he maintains are amply documented in post-service treatment records. The hearing officer also noted that he had considered a medical opinion dated 16 June 1997 from VA Medical Center Detroit which "concluded that the veteran's currently diagnosed schizophrenia was not displayed during the veteran's period of service of active military duty", and the report of "Independent Psychological Evaluation" dated 10 May 1998, which concluded that "the veteran currently and historically suffers from schizophrenia." Unfortunately, the aforementioned evaluations, as well as other post service treatment records were not made available for review by the Board.

The Board noted that in order for you to establish your entitlement to disability retirement from the Navy, you must demonstrate that you suffered from a major mental disorder which was incurred in or aggravated by your service, rendered you unfit to perform the duties of your office, grade, rank or rating as of the date of your discharge, and was ratable at 30% or higher. A rating lower than 30% would qualify you for separation with entitlement to severance pay. The Board was not persuaded that you have met your burden of proof. In this regard, it noted that the Diagnostic and Statistical Manual of Mental Disorder, fourth edition, (DSM IV) , contains eight diagnostic criteria for paranoid schizophrenia, which cover various symptoms, social and occupational dysfunction, specific duration, the exclusion of other disorders and substance and general medical conditions as causes for the behavior, preoccupation with one or more delusions or frequent auditory hallucinations, and the absence of prominent disorganized speech, disorganized or catatonic behavior, or flat or inappropriate affect. Although Dr. M...'s believes you suffered from paranoid schizophrenia, he has not adequately explained the basis for that conclusion, and his statements are insufficient to demonstrate that you met the full diagnostic criteria of paranoid schizophrenia.

The Board noted that Dr. C..., who gave you the initial diagnosis of Diagnosis Undetermined (schizophrenia) on 16 November 1959, was not a psychiatrist. His use of the term "DU" indicates that although a diagnosis of schizophrenia was suggested by your symptoms, a firm diagnosis had not been established. Upon your hospitalization at Chelsea Naval Hospital, you were evaluated by trained psychiatrists who found no evidence of a psychotic disorder. They determined that you suffered from a personality disorder, and that you were unfit for service because of that condition rather than a major mental disorder. The Board concluded that the physicians who observed and treated you at Chelsea Naval Hospital were in the best position to determine your correct diagnosis. As the Board was unable to review the reports of your post-service psychiatric treatment, it was reluctant to accept Dr. M...'s determination that those records support the conclusion that you suffered from schizophrenia in 1959.

The Board concluded that even if it were to be assumed, for the sake of argument, that you had an acute psychotic episode on 16 November 1959, and that it was the initial manifestation of a chronic psychotic process, the episode had apparently resolved by the time you were admitted to Chelsea Naval Hospital. The Board was unable to conclude that you would have been found unfit for duty and separated from the Navy on the basis of that episode. It was clear to the Board, however, that you had demonstrated your unsuitability for further service, and that your discharge on that basis was warranted.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director